

IN THE KENTUCKY PUBLIC SERVICE COMMISSION

IN RE: INVESTIGATION:

Case No. 2003-00433
AN ADJUSTMENT OF THE GAS AND ELECTRIC RATES,
TERMS, AND CONDITIONS OF LOUISVILLE GAS AND
ELECTRIC COMPANY

and

Case No. 2003-00434
AN ADJUSTMENT OF THE ELECTRIC RATES, TERMS, AND
CONDITIONS OF KENTUCKY UTILITIES COMPANY

* * *

SWORN STATEMENT

OF

DARYL E. NEWBY

AUGUST 8, 2005

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01/23/05 *[Signature]*

I N D E X

Exhibit No. 1..... 17
(Page 20 of PSC Employee Information
Handbook)

A P P E A R A N C E S

SPECIAL GENERAL COUNSEL TO THE PUBLIC SERVICE
COMMISSION:

JONATHAN D. GOLDBERG
Goldberg & Simpson
3000 National City Tower
101 South Fifth Street
Louisville, Kentucky 40202

1 The sworn statement of DARYL E. NEWBY,
2 taken in the offices of the Public Service
3 Commission, 211 Sower Boulevard, Frankfort, Kentucky,
4 on Monday, the 8th day of August, 2005, at
5 approximately 12:30 p.m.

6
7 EXAMINATION

8
9 BY MR. GOLDBERG:

10 Q. Mr. Newby, would you state your full
11 name.

12 A. My name is Daryl Edward Newby.

13 Q. All right, sir. And your home
14 address?

15 A. 2173 Palmar Trace Drive, Lexington,
16 Kentucky, 40513.

17 Q. All right, sir. And where do you
18 work?

19 A. Public Service Commission, State of
20 Kentucky.

21 Q. Now, the address here in Frankfort?

22 A. Gosh, I don't know. It's Sower
23 Boulevard. I'm not sure of the address, maybe 211.

24 Q. You do work here, though.

25 A. Yes, I do.

1 Q. All right. And how long have you
2 worked for the Public Service Commission?

3 A. About five and a half years.

4 Q. And do you have a job classification?

5 A. Yes. I am a rate analyst for -- gas
6 and electric, rate analyst.

7 Q. Okay. Now, prior to coming to the
8 Public Service Commission, had you worked in a
9 similar related function someplace else?

10 A. Yes, I have. I worked for Kentucky
11 Utilities for 27 years.

12 Q. All right, sir. What did you do for
13 Kentucky Utilities?

14 A. I was an accountant for probably eight
15 years. I was corporate records manager for probably
16 six years. I was treasury operations manager for the
17 remainder of the time, whatever that adds to.

18 Q. All right, sir. And then you came
19 here to the Public Service Commission?

20 A. Yes, I did.

21 Q. All right. Tell me what, in a
22 day-to-day basis, is your job here at the Public
23 Service Commission.

24 A. Principally I take care of the fuel
25 adjustment -- everything concerned with fuel

1 adjustment clause, including monthly filings,
2 six-month cases and two-year review cases. And I do
3 case work on gas and electric mostly on a routine
4 basis.

5 Q. All right. When you say "case work,"
6 is that rate cases?

7 A. Yes, it is. Well, rate cases. All
8 kinds of cases. Certificate cases, complaint cases.

9 Q. Okay. And do you have an immediate
10 supervisor?

11 A. Yes, Jeff Shaw.

12 Q. All right. And has Mr. Shaw been your
13 supervisor for the period of time you've worked at
14 the --

15 A. Yes, he has.

16 Q. -- Public Service Commission?

17 Okay. With regard to rate cases, do
18 you have a specific assigned set of duties?

19 A. Yeah. Normally I do. I look at the
20 cost of service study that's submitted by the utility
21 to see if it's reasonable. I do rate design, revenue
22 allocation type thing, and then just look at basic
23 finalize rate design.

24 Q. Okay. And do I take it you assist
25 Mr. Shaw with regard to rate design?

1 A. That's correct.

2 Q. All right. Let's deal specifically
3 with the LG&E/KU rate cases. What is your first
4 recollection of having been assigned to the two rate
5 cases, or if you were assigned to both of them?

6 A. No. I was only assigned to the KU
7 rate case.

8 Q. All right, sir.

9 A. And it was maybe late -- late 2002,
10 maybe? Early 2003.

11 Q. All right, sir. Let me reference it
12 for you because time is always fleeting for all of
13 us. The actual notice was filed in November of 2003.

14 A. Okay.

15 Q. And the rate documentation was
16 filed --

17 A. Oh, that's right.

18 Q. -- in December.

19 A. It was -- it was finalized in --
20 around August 2004.

21 Q. June of 2004, mid June --

22 A. Yeah, okay.

23 Q. -- when the commissioners issued their
24 ruling. Actually I think probably if you were a
25 lawyer in this, you would say it's not finalized yet.

1 A. Right.

2 Q. But the commission has ruled.

3 A. Correct.

4 Q. Okay. So let's go back at a point in
5 time. Tell me what your first recollection of your
6 participation was.

7 A. I was -- when I was initially assigned
8 to the case, probably the first thing I would have
9 done would have been to look at the cost of service
10 study that was submitted by the utility.

11 Q. Okay. And do you have a recollection
12 of Mr. Shaw actually making that assignment to you?

13 A. Not really.

14 Q. Okay. Do you have regular staff
15 meetings with Mr. Shaw and the other members of your
16 group?

17 A. Yes, we do.

18 Q. Okay. And I take it somewhere along
19 the line this would have been -- "this" being the KU
20 rate case, would have been discussed in the staff
21 meetings?

22 A. Probably.

23 Q. Okay.

24 A. Probably.

25 Q. All right. Did you participate in

1 document requests?

2 A. Yes, I did.

3 Q. Okay. Would that have been part of
4 your duties, I take it, then?

5 A. Yes, it would.

6 Q. And you would have designed questions
7 dealing with rate design and rate allocation?

8 A. Yes.

9 Q. And any other items that you would
10 have performed or any tasks that you would perform on
11 a KU rate case prior to the informal conference which
12 I'm representing to you is April 28, 2004?

13 A. Okay. No. That would principally
14 cover it.

15 Q. Okay. Now, between the time you first
16 found out that you would be working on the KU rate
17 case -- and let's call that December of 2003 -- and
18 that first informal conference April 28, 2004, did
19 you have any communication with anybody at KU or LG&E
20 about the rate cases themselves?

21 A. No, not about the rate cases.

22 Q. Okay. Do I take it you had some
23 communication?

24 A. Yes, I did.

25 Q. Okay. Tell me what you recall of your

1 communication.

2 A. Most of my communication would have
3 had to do with my regular duties with the fuel
4 adjustment charges. They sent us monthly reports. I
5 communicate back and forth with the company on a
6 fairly regular basis when there's an error in the
7 filing or a question that needs to be addressed
8 concerning the filing. I also was on fuel
9 adjustment -- not a fuel adjustment, but a fuel audit
10 that was done by the commission, and that would
11 possibly have overlapped a little bit. And in that
12 case I would have had contact with three or four KU
13 people that were just concerned completely with fuel.

14 Q. All right. So that your statement
15 makes good sense to anybody who would pick it up,
16 tell me what fuel adjustment is or in that regard
17 also a fuel audit.

18 A. Well, there is a fuel adjustment
19 regulation. And what I do is make sure that the
20 companies adhere to the regulation and then review
21 the reports that they send concerning that.

22 Q. Okay. Does it deal with how much fuel
23 is burned at a particular time?

24 A. Yes, it does.

25 Q. And is it a monthly report that they

1 make?

2 A. It is.

3 Q. Am I understanding this correctly, you
4 only do this for KU. You do not do it for LG&E.

5 A. No. I do it for KU/LG&E, Kentucky
6 Power and East Kentucky Power.

7 Q. Okay. So this is your assigned task.

8 A. That's correct.

9 Q. And when you're not working on rate
10 cases, this is one of your primary duties, I take it?

11 A. That's correct.

12 Q. Okay. Do you also come in contact
13 with the LG&E personnel assigned to fuel adjustment?

14 A. Yes, I do. They are the same people.

15 Q. So you're working with the same people
16 for both companies.

17 A. That's correct.

18 Q. And if I'm understanding this
19 correctly, you would have those regular contacts
20 every month during the period of time that the rate
21 case was ongoing.

22 A. That's correct.

23 Q. At any time, did you ever discuss the
24 rate cases themselves with any of those persons?

25 A. No.

1 Q. Okay.

2 A. Now, I want to also make clear there
3 may have been another occasion or two when I have
4 been contacted by someone I used to work with.
5 Usually this would be a retired person from Kentucky
6 Utilities, and it would be concerning something that
7 had happened to mutual friends during our career
8 there.

9 Q. These would be social contacts, I take
10 it?

11 A. That's correct.

12 Q. Okay. With regard to any of the
13 social contacts you made during that period of time,
14 do you have any recollection of ever having discussed
15 the rate cases?

16 A. Absolutely not.

17 Q. Okay. Did you attend the informal
18 conference again April 28, 2004? Do you have a
19 recollection of that?

20 A. I don't have recollection of it, but
21 I -- if there was an informal conference, I would
22 have attended.

23 Q. All right. And do you recall what
24 your duties were starting with the informal
25 conference through the whole hearing period, if any?

1 A. Up through that time basically to
2 formulate data requests.

3 Q. Okay. And beginning with April 28,
4 2004 and the hearing process, did you have any
5 duties?

6 A. Just to come up with hearing
7 questions.

8 Q. Okay. Did you go to the actual
9 hearings themselves?

10 A. Yes, I did.

11 Q. Okay. Do I take it that you would
12 have attended every day that testimony was actually
13 given?

14 A. Yes, I would.

15 Q. Okay. Did you have any communications
16 with LG&E and KU folks during the hearings?

17 A. Not that I know of. Now, once again,
18 if they're -- a possible communication concerning a
19 mutual friend or someone, that is very possible it
20 could have happened, but I doubt it would be during
21 that time.

22 Q. Do you have a recollection of ever
23 having discussed the rate cases?

24 A. Absolutely not.

25 Q. All right. Fair enough. Now, let me

1 ask you this same set of questions with -- that we've
2 been talking about related to the interveners. Do
3 you know who the interveners are --

4 A. Yes.

5 Q. -- when I say "intervenors"?

6 A. Yes, I do.

7 Q. Okay. Did you have any communication
8 with any of the intervenors, again starting back in
9 December of 2003 through the date of the informal
10 conference?

11 A. Certainly not involving the rate case.
12 It's a possibility I would have had a contact with an
13 intervenor should one of them have called and asked a
14 general question about the fuel adjustment clause.

15 Q. Okay. Other than questions about fuel
16 adjustment clause, is it fair to say you had no
17 contacts with any of the intervenors --

18 A. That's correct.

19 Q. -- during that period of time?

20 A. That's correct.

21 Q. All right. Okay. With regard to,
22 again, that period of time starting with the informal
23 conference through the hearing process, did you have
24 an assigned task on a daily basis during that period
25 of time with regard to the KU rate case?

1 A. No.

2 Q. Okay. Did you participate in any of
3 the discussions that were ongoing between the
4 parties?

5 A. No, I did not.

6 Q. Okay. By way of example, were you
7 familiar with the fact that there was discussion
8 about the cases going on amongst all the parties in
9 hearing room 2?

10 A. Yeah. I was aware that there was some
11 possible settlement discussions.

12 Q. Okay. Did you yourself participate in
13 them?

14 A. No, I did not.

15 Q. Okay. You were not part of the staff
16 team that was observing these discussions amongst the
17 parties?

18 A. No.

19 Q. Okay. Is it fair to say, Mr. Newby,
20 that your only participation during those days was to
21 sit in the hearing room and actually observe
22 testimony being given?

23 A. Yes, it would.

24 Q. Okay. Do you have a recollection of
25 ever discussing the rate cases with any of the

1 commissioners?

2 A. No, I don't.

3 Q. Okay. Do you have a recollection of
4 having sat in the hearing room on the date that
5 Mr. Raff referenced a radio address by the attorney
6 general alleging that there was ex parte
7 communication, collusive and/or inappropriate
8 behavior --

9 A. I do remember the reference.

10 Q. -- going on here at the PSC?

11 A. Yes.

12 Q. Okay. Tell me what you recall about
13 that.

14 A. You've basically stated what I recall.
15 It was very -- it was a very brief statement that
16 Mr. Raff made, and I think everyone at the commission
17 was aware at that point that that was the case.

18 Q. Focusing in on Mr. Raff's statement
19 and then subsequent events, do you have a
20 recollection that the chairman then made a request of
21 all the persons in the room?

22 A. Yes, I do.

23 Q. Tell me what you recall.

24 A. I remember the chairman saying
25 something about if there was anyone that knew of

1 anything like the type of collusion that was being
2 talked about, that they should step forward or at
3 least stand up at that time at the hearing.

4 Q. Okay. Did anybody stand up, say that
5 they witnessed anything?

6 A. No, they did not.

7 Q. All right. Subsequent to the
8 hearings, have you had any communication about the
9 rate cases with anybody at LG&E or KU?

10 A. No. Well, it's very possible I may
11 have had some after the order. After the order went
12 out, they were to submit their rates in full as
13 the -- as they would be under the settlement
14 agreement. And I would have looked at the rates at
15 that point, calculated the rates. Anything that
16 might have been missing, I may have contacted the
17 company and asked them to send those forward to us.

18 Q. Okay. Other than that communication,
19 no communication about the rate case?

20 A. No.

21 Q. All right. That would have been part
22 of your function in terms of rate design, would it
23 not?

24 A. That's correct.

25 Q. Okay. As you sit here today, do you

1 have a recollection of having done so?

2 A. No.

3 Q. Okay. You just think that it's
4 possible you may have.

5 A. Yeah. It -- it seems -- I'm thinking
6 that it's possible that they may have left out, for
7 example, a few street light rates that should have
8 been addressed. And in that case either I or -- or
9 Mr. Shaw would have called someone and asked them to
10 send those rates forward.

11 (DEPOSITION EXHIBIT NO. 1 PREVIOUSLY
12 MARKED)

13 Q. Okay. Let me show you the Public
14 Service Commission Employee Information Handbook and
15 see if you can identify that you have reviewed that
16 document before.

17 A. Yes, I have.

18 Q. All right. And I take it when you
19 come to work here at the Public Service Commission
20 all the employees are given that particular document?

21 A. Yes, they are.

22 Q. Okay. If you'd turn to page 20 for
23 me, you'll see the referencing as to improper
24 ex parte communication, the policy about improper
25 ex parte communication?

1 A. Mm-hmm, I do.

2 Q. All right. Do I take it that you,
3 prior to today, have an understanding that the Public
4 Service Commission had a policy about improper
5 ex parte communication?

6 A. Absolutely.

7 Q. Okay. Had you received training in
8 that particular policy?

9 A. Yes.

10 Q. Okay. And did you have an
11 understanding that any contact on the merits of the
12 case was inappropriate?

13 A. Yes.

14 Q. Okay. And I take it you have complied
15 with that?

16 A. Absolutely.

17 Q. All right. Now, with regard to the KU
18 and LG&E rate cases, did you yourself observe
19 anybody -- "anybody" meaning a member of the staff or
20 the commissioners -- violating the ex parte
21 communication rule as found on page 20 there?

22 A. No.

23 Q. Okay. Then let me ask you, while one
24 can agree or disagree with one's own -- other
25 person's definition of collusive and/or

1 inappropriate, did you yourself observe any behavior
2 that you thought was inappropriate or indicative of
3 collusive behavior as it relates to the rate cases?

4 A. No, I did not.

5 Q. Okay. That's all I have, Mr. Newby.
6 Thanks much.

7 A. I might add that the commission was
8 very careful when I came here, and any other KU
9 employee came here, to make sure that we cut all
10 connections with the company. For example, I was on
11 a credit union board. I was asked to leave the
12 credit union board, which was a nonpaid position. I
13 had some KU stock. I was asked to -- to vest my KU
14 stock. So they were very careful.

15 Q. Okay. And was it your understanding
16 that was a policy that was in place here at the
17 Public Service Commission?

18 A. Yes.

19 Q. And it applied to other folks?

20 A. That's correct. And I was kept off of
21 any Kentucky Utilities cases for a period of one
22 year.

23 Q. Okay. To your knowledge, did that
24 also apply to LG&E?

25 A. Yes.

1 Q. Okay. And I take it there are people
2 here at the Public Service Commission who are former
3 LG&E employees?

4 A. There may be. The ones that I'm
5 familiar with were KU employees.

6 Q. Okay. Any other rules and regulations
7 applying to KU employees that you recall?

8 A. No, I don't.

9 MR. GOLDBERG: Okay. Thank you, sir.
10 I appreciate that.

11

12 (STATEMENT CONCLUDED AT 12:50 P.M.)

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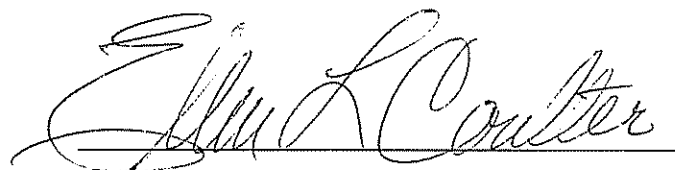
1 STATE OF KENTUCKY)
2)
3) (SS:
4 COUNTY OF JEFFERSON)
5)

6 I, ELLEN L. COULTER, Notary Public,
7 State of Kentucky at Large, hereby certify that the
8 foregoing sworn statement was taken at the time and
9 place stated in the caption; that the appearances
10 were as set forth in the caption; that prior to
11 giving testimony the witness was first duly sworn by
12 me; that said testimony was taken down by me in
13 stenographic notes and thereafter reduced under my
14 supervision to the foregoing typewritten pages and
15 that said typewritten transcript is a true, accurate
16 and complete record of my stenographic notes so
17 taken.

18 I further certify that I am not
19 related by blood or marriage to any of the parties
20 hereto and that I have no interest in the outcome of
21 captioned case.

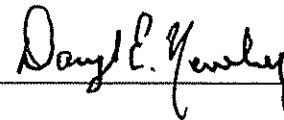
22 My commission as Notary Public expires
23 November 5, 2007.

24 Given under my hand this the 18th
25 day of August, 2005, at Louisville,
Kentucky.



ELLEN L. COULTER
NOTARY PUBLIC

1 I, the undersigned, DARYL E. NEWBY, do
2 hereby certify that I have read the foregoing sworn
3 statement, and that, to the best of my knowledge,
4 said sworn statement is true and accurate, with the
5 exception of the corrections, if any, listed on the
6 errata sheet.

7
8 

9 DARYL E. NEWBY

10
11 Subscribed and sworn to before me this 28th
12 day of September, 2005.

13
14
15 
16 NOTARY PUBLIC

17
18
19 My commission expires Nov. 30, 2008
20
21
22
23
24
25

COULTER REPORTING, LLC
101 EAST KENTUCKY STREET, SUITE 200
LOUISVILLE, KY 40203

ERRATA SHEET

NAME DARYL E. NEWBY DATE OF DEPOSITION 8/8/05

After having read my deposition, I wish to make the following changes:

Page 5 Line 23
Change finalize to finalized
Reason for change unclear, incorrect

Page _____ Line _____
Change _____
Reason for change _____

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Daryl E. Newby
DARYL E. Newby

Subscribed and sworn to before me by Daryl E. Newby this 28th day of September 2005.

My Antonio B. Howard
Notary Public

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EMPLOYEE INFORMATION HANDBOOK

EXHIBIT

NEWBY
8/8/05

The contents of this Employee Information Handbook reflect the current policies and procedures in effect at the PSC at the time of its printing.

Amendments to personnel law, regulations and policies may modify or supercede all statements in this information handbook.

It is the policy of the Public Service Commission to affirm equal opportunity for employment and advancement to all qualified persons without regard to race, color, religion, national origin, disability, sex, age, or sexual orientation.

Printed with State Funds

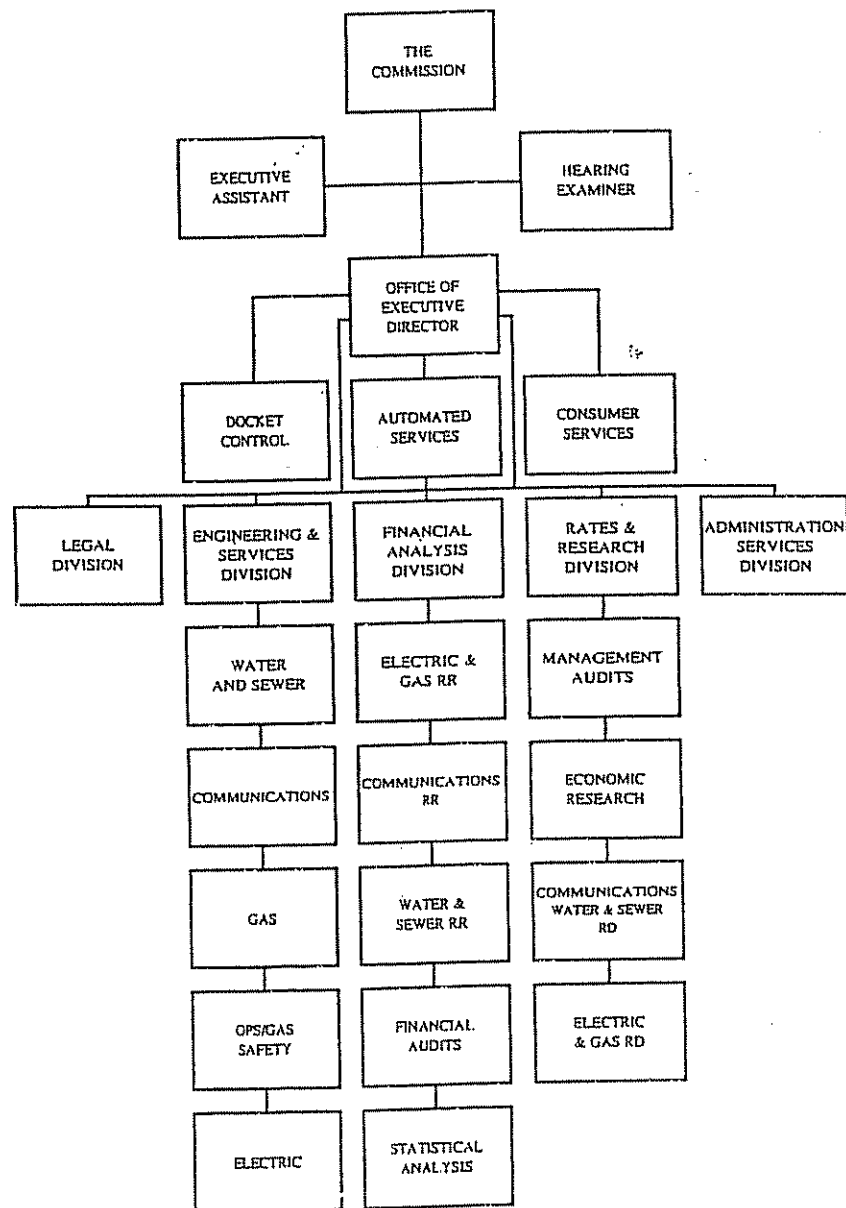
Effective 10-1-93

PSC EMPLOYEE HANDBOOK

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Public Service Commission Organizational Chart



PSC INFORMATION HANDBOOK

Introduction

The Commissioners and management team of the Kentucky Public Service Commission (PSC) recognize their employees as their most valuable asset. This booklet has been prepared to help employees learn about their commission, its structure and functions, and some of the many facets of the employment relationship into which they have entered. In referring to employees, "he" shall mean male or female.

Questions concerning employment should be directed to your immediate supervisor, or to your agency Personnel Administrator.

The Public Service Commission is an independent administrative body established by the Legislature in 1934 with quasi-legislative and quasi-judicial duties.

The Commission regulates intrastate rates and services of investor-owned electric, natural gas, telephone, water and sewage utilities, rural electric and telephone cooperatives, and water districts and associations. The Commission performs its regulatory functions through written orders following adjudicative and rulemaking procedures outlined in Chapter 278 of the Kentucky Revised Statutes and administrative regulations promulgated by the Commission in Title 807 of the Kentucky Administrative Regulations.

The Commission's goal is to ensure that every utility within its jurisdiction charges fair, just and reasonable rates for the services rendered and that those services are safe, adequate, efficient and reasonable.

The PSC consists of three (3) members appointed by the Governor with the advice and consent of the Senate. Commissioners are appointed for staggered four year terms. Appointments run from July 1 to June 30, with each commissioner staying in the office until his successor is sworn into office. The Governor designates one commissioner to act as Chairman and Chief Executive Officer and a second commissioner to serve as Vice Chairman and act for the Chairman in the latter's absence.

The PSC is divided into the following units: General Counsel (Legal), Engineering, Rates and Research, Financial Analysis, and Administrative Services. The Commission appoints an Executive Director, to serve at its pleasure, and to act as Chief Administrative Officer directing day-to-day operation of the Commission.

Affirmative Action Policy

The Commission is committed to the law of the Commonwealth in establishing a work place free from the injustices of discrimination. It is the policy of the Commission to affirm equal opportunity for employment and advancement to all qualified persons without regard to race, color, religion, national origin, disability, sex, age, or sexual orientation. Any employee who believes he has been subjected to discriminatory treatment in the workplace has the responsibility immediately to bring the problem to the attention of the agency Personnel Administrator.

The Americans With Disabilities Act of 1990 (ADA)

The Americans With Disabilities Act, 42 U.S.C. § 12101 et seq., is a federal law that requires that public facilities and programs, when viewed in their entirety, be accessible to persons with all types of disabilities. The ADA also makes it unlawful to discriminate against a qualified person with a disability in any aspect of employment. The ADA applies to Commission employment practices and the terms, conditions and privileges of employment. The ADA protects qualified persons with a disability. This includes current Commission employees, qualified applicants seeking Commission employment and citizens seeking to utilize Commission facilities and programs. Contact the agency Personnel Administrator for further information.

Sexual Harassment Policy

The Commission does not tolerate sexual harassment of any kind. Sexual harassment in the workplace is a serious offense against the dignity of fellow workers and a violation of both state and federal law. Sexual harassment is viewed as misconduct and will subject any offending employee to disciplinary action up to and including dismissal. Any employee who has a complaint of sexual harassment at work by supervisors, co-workers, visitors or clients should immediately bring the problem to the attention of his supervisor, or, if the complaint involves supervisory personnel in the employee's line of command, complaints may be made to another supervisor, the agency Personnel Administrator or the Cabinet Personnel Administrator.

Vacancies

When a vacancy occurs in the Commission, it is usual practice to attempt to fill the position from within the agency or state government through promotion or transfer. When recruiting from the outside for a merit position, a register of names is requested from the Department of Personnel for the vacant position. A selection is made from this register. The new employee serves a probationary period of six months to obtain merit status. Non-merit appointments are made by the Commission to serve at the pleasure of the Commission.

Probationary Period

1. Initial probationary period is the period an agency observes an employee's job performance and determines to continue his employment or terminate it. The initial probationary period is six months. Employees who perform satisfactorily gain merit system status.
2. Promotional probationary period is the six months following a promotion during which the agency observes the employee's job performance. With satisfactory performance, the employee gains merit system status in the new job. If performance is not satisfactory, the employee is returned to his former position or to a position in the same job classification as the former position.

Transfers

If an employee wishes to transfer to another position or location within the Commission, he should submit the request in writing to his supervisor. If an employee wishes to transfer to another state agency, it is his responsibility to locate the new position. The Commission and the hiring agency will coordinate the transfer of Personnel records. The employee is responsible for notifying his immediate supervisor and negotiating a transfer date.

Promotions

Promotion is a change from a position in one class to a position in another class having a higher minimum salary or carrying a greater scope of discretion or responsibility. Employees who are promoted are required to serve a **promotional probationary period**. Employees who are promoted retain their status in the class from which they are promoted; if an employee does not successfully complete the promotional probation he must revert to a position in his former class. An employee who is promoted receives a salary increase of at least five percent or advances to the minimum of the grade for the new position (whichever is greater). An agency may give a five percent promotional increase to an employee who successfully completes promotional probation. If the promotion is to a position which constitutes an unusual increase in the level of responsibility, the agency, with the prior written approval of the Commissioner of Personnel, may grant upon promotion a ten percent or fifteen percent salary increase over the employee's previous salary.

Reclassifications

A reclassification occurs when an employee is given a different job classification because of a **material and permanent** change in his duties or responsibilities. An employee who is advanced to a higher pay grade through reclassification shall receive a salary increase of five percent except that in no case shall the employee's salary be below the minimum for the new pay grade. An employee placed in a lower pay grade through reclassification shall receive the same salary he received before reclassification.

Hours of Work

Full-time state employees are required to work 7.5 hours per day. Part-time and hourly employees shall be scheduled to work hours in accordance with the needs of the position. The normal work hours are from 8:00 a.m. to 4:30 p.m., Monday through Friday, unless flextime has been approved by the Executive Director. The employee shall not be scheduled to begin work earlier than 7:30 a.m. nor later than 8:30 a.m. Habitual tardiness or excessive absenteeism from work stations shall constitute grounds for disciplinary action.

Training

The Commission encourages all employees interested in career development to take advantage of courses offered at the Governmental Services Center at Kentucky State University. The Commission also encourages job enrichment through work-related workshops and seminars of a technical nature to improve job efficiency and effectiveness if within the budgetary allowance.

Performance Evaluations

Performance evaluations enable both the supervisor and employee to determine whether the employee is meeting the requirements of the job. Performance evaluations, updated job descriptions, standards and goals are to be completed for merit employees on June 30 (mid-year) and December 31 (year-end) of each year. An employee is not eligible to begin the evaluation process unless his probationary period is completed by January 1 of the year for which he is to be evaluated.

Job Classification

The goal of the classification process is to maintain a system that accurately matches what the employee does with how the employee is classified. Each employee has a detailed position description (PD) of his job duties. The PD is developed and monitored as a joint effort of both the employee and his supervisor.

Compensation (Pay) System

When jobs are classified, they are evaluated on thirteen (13) factors and compared to jobs in their proposed class. The following factors are included in the evaluation: minimum education requirement; minimum experience requirement; supervisory responsibilities; responsibilities for following, interpreting, enforcing, or developing policies or procedures; responsibility for materials and supplies; authority to handle and spend money; responsibility for personal contacts; responsibility for records and reports; responsibility for machinery and equipment; types of mental skills required; types of mental demands required; types of physical demands; and types of working conditions. This evaluation provides a basis for internal ranking of classes. In addition, the Department of Personnel maintains information about the salaries other employers pay for similar jobs. Using all available information, each class is assigned a pay range on the salary schedule.

Paychecks

All payroll checks are paid two weeks in arrears. For example, a new employee will not receive his first paycheck for four weeks. If the appointment date is September 1, he will receive his first check on September 30 for the September 1 - 15 pay period. Payday is always on the 15th and 30th of each month, unless payday falls on a Saturday or Sunday, in which case paychecks are delivered on the preceding Friday.

Resignation

An employee who desires to terminate his service with the state shall submit a written resignation to the agency. Resignations shall be submitted at least fourteen (14) calendar days before the final working day. Failure of an employee to give fourteen (14) calendar days notice with his resignation may result in forfeiture of accrued annual leave.

Retirement

All salaried employees and hourly Commission employees working an average of 100 hours a month are members of the Kentucky Employees Retirement System and contribute 5% of their base pay to the retirement system. The state contributes 7.65% of the employee's base salary to his retirement account. The following are benefits provided by the Retirement System:

Normal Retirement

1. A member who has attained age 65 and has acquired at least 48 months of service credit (12 months must be current service) is eligible for an annual retirement benefit as determined by the following formula:

YEARS OF SERVICE X 1.97% X FINAL COMPENSATION*

EXAMPLE: A member has 20 years of service and final compensation of \$15,000.

$$20 \times 1.97 = 39.4\%$$

$$39.4\% \text{ of } \$15,000 = \$5,910 \text{ annual payment}$$

$$\$5,910 \text{ divided by } 12 = \$492.50 \text{ monthly payment}$$

*Final compensation is the average annual salary earned during the five fiscal years when the member's salary was highest.

2. A member who has attained age 65 but has less than 48 months of service is eligible for a monthly benefit equal to the actuarial equivalent of twice the member's accumulated contributions. This amount must be calculated by the retirement system.

Early Retirement

1. A member may elect early retirement at any age with no decrease in benefits if the member has 27 years of service credit. At least 15 years of the service must be current service.
2. A member may choose early retirement if he is age 55 or older and has at least 60 months of service credit.
3. A member may also choose early retirement if he is under age 55, and has at least 25 years of service, 15 of which must be current service. The benefits are calculated the same as for normal retirement and are reduced 5% for each year of service credit under 27.
4. Under early retirement, the benefit is calculated the same as under normal retirement, except that benefits are reduced depending on the member's age or years of service.

Disability Retirement

A member who has acquired 60 months of service credit (12 months must be current service) is eligible for a monthly disability benefit if he should become disabled while actively contributing to the retirement system. Application for disability benefits must be made within 12 months of termination of employment. Disability benefits are calculated in the same manner as Normal Retirement benefits except that additional years of service credit may be added to the member's account and years of service at the time of disability.

Any questions should be referred to the Kentucky Employees Retirement System office at (502) 564-4646.

Deferred Compensation

All Kentucky state government employees may participate in the Deferred Compensation program. Deferred Compensation lets the employee set aside income from his paycheck for retirement. Money set aside for Deferred Compensation is

automatically payroll deducted twice each month. The employee pays no state or federal income tax on the money deferred until he begins receiving benefit payments at retirement or early retirement, when he may be in a lower tax bracket. For additional information, contact the Kentucky Public Employees Deferred Compensation System at 564-7240.

U.S. Savings Bonds

Savings Bonds are available to all employees through payroll deduction. Employees should contact the agency Personnel Administrator for forms and information.

Credit Unions

A state employee may join the Commonwealth Credit Union or the Kentucky Employees Credit Union. Each offers a wide range of financial services, including secured and unsecured loans, savings plans, and payroll deductions. Information may be obtained by calling:

Commonwealth Credit Union	(502) 564-4775
Kentucky Employees Credit Union	(502) 564-5597

Workers' Compensation

All Commission employees are protected by Workers' Compensation. If an employee is injured at work, he should advise his supervisor immediately. Reporting should be coordinated through the Personnel Administrator's office. Failure to report injuries to the supervisor within 24 hours may jeopardize an employee's entitlement to Workers' Compensation benefits.

Unemployment Insurance

All employees of the Commission (except Commissioners) are eligible for unemployment compensation under certain circumstances. Direct any questions to the agency Personnel Administrator.

Agency Leave Procedures

Accumulation and use of the following leave are controlled by 101 KAR 2:100:

Annual	Voting
Sick	Blood Donation
Compensatory	Military
Court	

Family and Medical Leave Act of 1993 (FMLA)

FMLA, 29 U.S.C. §2601 et seq., requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons. Unpaid leave must be granted for any of the following reasons:

- > to care for the employee's child after birth, or after placement of a child with the employee for adoption or foster care;
- > to care for the employee's spouse, child, or parent, who has a serious health condition; or
- > for a serious health condition that makes the employee unable to perform his job.

Job Benefits and Protection:

- > For the duration of FMLA leave, the employer must maintain the employee's health coverage under any "group health plan."
- > Return from FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

For additional information regarding FMLA, please contact the agency Personnel Administrator.

Holidays for State Personnel

State offices shall be closed and state employees shall be given a holiday on the following days:

- (a) The 1st day of January plus one extra day;
- (b) The 3rd Monday in February;
- (c) Good Friday, one-half day;
- (d) The last Monday in May;
- (e) The 4th day of July;
- (f) The 1st Monday in September;
- (g) Presidential election day as required under KRS 2.190;
- (h) The 4th Thursday in November plus one extra day;
- (i) The 25th day of December plus one extra day.

Smoking Policy

To provide a workplace that respects the rights of non-smokers, while ensuring smokers are not deprived of their rights, smoking is permitted only in specifically designated areas. This policy is in effect at all times.

Health Insurance

An employee has the option of receiving coverage through the carrier holding the state health insurance contract or if he lives or works within a defined service area, he may choose coverage through one of the health maintenance organizations (HMO's). Health coverage becomes effective the first day of the second month following the date of employment. When his employment terminates, the employee remains covered for the following month by the state's contributions.

The Retirement System provides hospital/medical insurance or Health Maintenance Organization coverage for recipients of a retirement benefit. Participation in these plans is optional and a recipient may purchase, at his own expense, coverage for his beneficiaries and dependents. The cost of coverage for the retirement system member may be partly paid by the retirement system depending on the number of years of service that the member accumulated. Percentages of the premium that will be paid by the system are as follows:

Less than 4 years	0%
4 - 9	25%
10 - 14	50%
15 - 19	75%
20 or more years	100%

Life Insurance

All eligible employees receive term life insurance coverage paid for by the state in the amount of \$6,560.00. To be eligible for life insurance benefits, a state employee must be a contributing member to one of the state administered retirement systems. The insurance becomes effective the first day of the second month following the date of employment. As with health insurance coverage, an employee will be covered by the state term life insurance one month following his separation from state service. State employees also have the option of purchasing additional life insurance. See the agency Personnel Administrator for additional information.

Other Insurance

Several dental insurance options are available for state employees through payroll deduction. The state does not contribute toward any of these premiums. Many premiums can be payroll deducted. See the agency Personnel Administrator for additional information.

Commonwealth Choice

Commonwealth Choice is a tax-saving opportunity that can benefit employees and their families who have dependent day care or out-of-pocket healthcare expenses. **Commonwealth Choice is not an insurance plan.** This optional benefit was implemented by the Kentucky Department of Personnel to help reduce taxes and increase spendable income. The cost-saving advantage of the plan is simple: any eligible dependent care and health care expenses paid through the plan are tax free. No federal or state income tax or Social Security tax on the money used to pay these eligible expenses is owed. Any full-time or permanent part-time, active state government employee who is eligible for state-sponsored health insurance coverage and will have completed one full year of continuous service by December 31 of a given year, can enroll in this tax-saving plan. For additional information on Commonwealth Choice, contact the agency Personnel Administrator.

Kentucky Employee Assistance Program (KEAP)

The Kentucky Employee Assistance Program (KEAP) is dedicated to helping employees find solutions to personal problems that may hinder effectiveness at work. Problems concerning marital, family, or emotional distress, alcoholism and drug abuse, financial or legal difficulties, or even medical problems can seriously diminish an individual's job performance. As a progressive employer, the Commonwealth of Kentucky recognizes that there are positive, workable solutions to many of these problems which trouble employees. All state employees and their families are eligible for KEAP services, and there is no cost for its information or referral services. All contact with KEAP is strictly confidential; any personal information disclosed will be kept confidential to the full extent permitted by state and federal law.

Drugfree Workplace

The Drug Free Workplace Act of 1988, 41 U.S.C. §701 et. seq., provides that recipients of federal grants shall inform their employees that the unlawful manufacture, distribution, dispensation, possession, or use of alcohol and other controlled drugs in any designated workplace is prohibited. Conviction for such conduct may subject the employee to appropriate disciplinary action under state law, up to and including dismissal. The state may, in lieu of disciplinary personnel action, require an employee convicted of such conduct to participate in a drug abuse assistance or rehabilitation program.

Health and Safety

The Commission adheres to federal and state laws established to guarantee the health and safety of all employees in the workplace. Employees must follow the safety rules and procedures pertaining to their work unit. They must also maintain a personal commitment to exercising safe work habits and practices. For further information regarding health and safety in the workplace, please contact the agency Safety Coordinator.

Disciplinary Action

Supervisors are responsible for disciplining employees for just cause including conduct while on or off duty which may be prejudicial or detrimental to the Commonwealth or otherwise affect adversely the confidence of the public in the integrity of the Commission. Discipline may range from written reprimand to suspension or dismissal from state service. If an employee disagrees with any discipline received, he may appeal the action. The steps outlining these procedures are described in the Grievances Section.

Grievances

A grievance is a complaint filed by an employee which concerns some aspect of his employment. A grievance must be filed within thirty (30) days of the date of the action complained of or the date upon which the employee, exercising due diligence, became aware of the action.

Procedures

1. A grievance shall be filed with the employee's immediate supervisor.
2. The employee shall set forth in writing the basis of his grievance or complaint together with the corrective action desired. If the employee wishes to submit additional information or documentation, he may attach it to the grievance.
3. When a grievance is filed that alleges discrimination on the basis of race, color, religion, national origin, sex, disability or age (forty (40) or over), the supervisor shall immediately notify the agency Personnel Administrator in compliance with affirmative action requirements.
4. Interviews to evaluate or investigate the grievance held with the complainant or other employees shall not require the use of leave time. For interviews held outside of normal working hours, compensatory time shall be granted.

5. All parties may have a representative present at each step of the grievance procedure.

To obtain additional information, contact the agency Personnel Administrator.

Misuse of Facilities or Equipment

No employee shall use any equipment, supplies, or properties of the Commonwealth for other than officially designated purposes. Any questions in this area should be directed to the employee's immediate supervisor.

Telephones are to be used for state business. If it is necessary for employees to make personal long-distance calls, they shall reimburse the state for personal calls in cash or by personal check payable to Kentucky State Treasurer.

PROFESSIONAL CONDUCT AND ETHICAL RESPONSIBILITIES

Employees of the Commission work for the benefit of the people of the Commonwealth of Kentucky. As public servants, employees are bound to adhere faithfully to standards of professional and ethical conduct. Employees represent the Commission and are expected to conduct themselves in a manner which will inspire the confidence, trust, and respect of the public.

Principles of ethical behavior are based on the belief that public servants must be independent and impartial; government policy and decisions must be made through established processes; public servants must not use public office to obtain private benefits; and the public should be able to have confidence in the integrity of its government. KRS 11A.005. The Commission requires its employees to avoid conflicts of interest, improper ex parte communications, and participation in activities which present the appearance of impropriety.

The following guidelines are set forth to illuminate areas of concern:

A. Adverse Pecuniary Interest

Commissioners are statutorily prohibited from holding an official position or owning stocks, bonds, or any other pecuniary interest in a utility. KRS 278.060(2). The Commission has adopted the same prohibition for its staff. The Commission has determined that participation in an investment plan where utility stocks or bonds are purchased as part of a total portfolio and where the Commission staff member has no control over the company chosen for investment (such as a mutual fund), does not constitute a violation of this prohibition. Any staff member who is in violation of this policy shall immediately disclose that fact to the Executive Director.

All employees are subject to the provisions of the Kentucky Model Procurement Act ("Act") which detail prohibited conflicts of interest for public officers and employees. An employee cannot be interested, either directly or indirectly, in any contract in which he may be called to act or vote. KRS 45A.430. Likewise, the Executive Branch Ethics Code ("Code"), applying to all employees of the Commission, prevents a public servant from acting as a representative of the state in a business transaction with himself or in any business in which he or a family member has a greater than five percent interest. KRS 11A.040(3). "Family" is defined in KRS 11A.010(4) to mean a person's "spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption:

parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister."

Another Code provision, KRS 11A.040(4), could affect employees by providing that they and their family members holding more than a five percent interest in a business cannot be parties, directly or by virtue of their partial ownership of the business, to any contract, agreement, lease, sale or purchase between that business and any state agency. For example, it is impermissible for the owner of a computer business to sell products to the Department of Human Resources if at least five percent of its shares are owned by the spouse of a Commission employee. Violation of this statute is a Class D felony.

B. Gifts and Favors

The Code provides that a public servant cannot knowingly accept compensation, other than that provided by law for public servants whose salary is paid by the Commonwealth, for the performance of any activity included in his official duties. KRS 11A.010(5). Compensation is defined as "any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another." KRS 11A.010(3).

The Executive Branch Ethics Commission has concluded that when dealing with a civic organization or other organization not comprised of entities regulated by the commission:

"an executive branch employee may accept a free meal at an event in which he is invited to participate in furtherance of his official duties, provided these tests are met:

1. The meal is an integral part of the event and the employee's role in the program occurs immediately before, during, or immediately after the meal.
2. The employee's meal is the same available to all others at the event and is consumed on the premises.

We also approve acceptance of a small token of appreciation such as a coffee mug. Public servants are encouraged to make speeches and presentations for the benefit of citizens of the Commonwealth, but public servants shall be zealous to accept nothing more than a small token of appreciation." AO 90-10.

The Executive Branch Ethics Commission states that employees involved in regulating utilities should not accept meals or beverages from those utilities or trade associations whose members are regulated utilities. AO 93-50.

The Commission prohibits its employees from accepting any item, including food or entertainment, from any employee of or executive agency lobbyist for a regulated utility. The Commission strives to avoid the public perception that an improper relationship may exist between regulated utilities and the Commission or its staff.

C. Representing Non-State Interests

No employee shall represent or act as an agent for any private interest, whether for compensation or not, in any transaction in which the state has a direct and substantial interest and which could be reasonably expected to result in a conflict between a private interest of the official or employee and his official state responsibilities.

D. Misuse of Information

The Code prohibits Commission employees from knowingly disclosing or using confidential information acquired during the course of their work. KRS 11A.040(1).

Employees should carefully and conservatively evaluate a document before providing it or describing its contents to anyone other than another Commission employee. Consult the Commission's General Counsel for assistance if you are unable to determine whether a particular document should be released.

E. Outside Employment

Members of the Commission are required by statute to devote their entire time to the duties of their offices. KRS 278.050(1). Members of the Commission's staff are not legally prohibited from having other jobs. However, employees who do seek outside employment are expected to ensure there is no conflict with their Commission duties. Employees who are unsure whether outside employment conflicts with their Commission duties should notify the Executive Director or consult the General Counsel.

F. Post-Commission Employment

The Code places three restrictions on the type of employment a public servant is permitted to accept after leaving state government:

1. A former public servant may not act as a lobbyist or lobbyist's principal for a period of one year after the date he leaves state employment or his term of office expires, whichever is later.
2. A former public servant may not represent a person in a matter before a state agency in which the former public servant was directly involved for a period of one year after the date he leaves employment or his term of office expires, whichever is later.
3. A present or former public servant may not, within six months of the termination of his state employment, accept employment, compensation, or other economic benefit from any person or business that contracts or does business with the state in matters in which he was directly involved during his tenure. This prohibition does not apply to individuals returning to the same business, firm, occupation, or profession in which they were involved prior to state government employment. The Executive Branch Ethics Commission has indicated through its Executive Director that it considers the Commission to be "doing business with" the utilities it regulates.

G. Improper Ex Parte Communication

1. "Ex parte communication" means an oral or written communication which relates to the merits of a formal proceeding pending before the Commission, or which the employee reasonably anticipates will be filed with the Commission, and which is not included in the public record, without notice and opportunity for all parties or interested persons to participate. A communication relevant to the merits includes any issue of fact or law relative to the matter pending.
2. The following types of communication are not prohibited ex parte communications if such communication is reasonably limited to the matter at hand:
 - (a) Any procedural inquiry, including prefiling inquiries.
 - (b) Staff's communications when performing routine operational inspections and safety inspections not for the purpose of investigating a matter pending before the Commission.
 - (c) Staff's communications when performing management audits pursuant to KRS 278.255 and routine field audits of accounts, books, and the Commission.

- (d) Staff's communications when performing cell site field inspections.
 - (e) Staff's communications when performing field reviews or inspections for preparation of Commission staff reports to be filed in pending or anticipated rate cases.
 - (f) Staff's communications in cases without intervenors, unless the staff determines intervention is likely.
- 3. Commissioners or Commission staff shall not participate in any prohibited ex parte communication with any interested person regarding the merits of any formal case or proceeding pending before the Commission or a case or proceeding that the employee anticipates will be filed with the Commission. It is improper to disclose a Commission decision prior to the issuance of an Order on the matter.
 - 4. If an employee participates in a prohibited ex parte communication, he shall immediately disclose the relevant details of the communication to the General Counsel.

H. Executive Agency Lobbyists

As of September 16, 1993, any individual who is engaged to promote, oppose, or otherwise influence the outcome of an executive agency decision is considered an executive agency lobbyist and is required to register with and make certain disclosures to the Kentucky Executive Branch Ethics Commission.

An "executive agency decision" is narrowly defined to include only those agency decisions regarding the expenditure of state or agency funds with respect to the award of a contract, grant, lease, or other financial arrangement under which those funds are distributed or allocated. PSC employees are rarely involved in agency decisions affecting the disbursement or allocation of state or agency funds.

However, executive agency lobbyists are required to report on a quarterly basis all expenditures made on behalf of or financial transactions with any executive branch employee in any agency, whether or not the employee works for the agency the executive agency lobbyist was engaged to influence. All Commission employees must be aware that disclosure of expenditures and financial transactions involving them could be detrimental to the public's perception of the Commission and act accordingly.

Kentucky Public Service Commission
730 Schenkel Lane
Frankfort, Kentucky 40601
(502) 564-3940
(502) 564-7279 fax
(800) 772-4636 Public Information Hot Line

WHEN THE PUBLIC ASKS FOR DIRECTIONS TO PUBLIC SERVICE COMMISSION:

Take I-64 to the Frankfort/Versailles exit (Exit 58). Turn off the exit onto U.S. 60 (Versailles Road) toward Frankfort. Follow U.S. 60 all the way in until you reach the intersection of U.S. 60, 460 and 421 (approximately 3 miles). As you approach the intersection, the road will widen to 5 lanes and a sign will read "Capital Plaza Complex". Continue straight through the light onto U.S. 421 (Wilkinson Boulevard) for approximately 1 mile. At the first light (at Hardee's) you will turn right onto Schenkel Lane. We are on the second block, in a two-story brick building located on the right, across from the Chrysler dealership (Frankfort Auto Sales) and right before you get to the liquor store.

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